



U.S. Department of Justice

United States Attorney
 Southern District of New York

The Jacob K. Javits Federal Building
 26 Federal Plaza, 37th Floor
 New York, New York 10278

May 21, 2025

BY ECF

The Honorable J. Paul Oetken
 United States District Court
 Southern District of New York
 40 Foley Street
 New York, New York 10007

Re: *United States v. Nunez et al., 22 Cr. 293 (JPO)*

Dear Judge Oetken:

On May 7, 2025, defendants Jowenky Nunez, Jr., Brian Hernandez, and Iyaury Rodriguez-Rosario were convicted of all counts after a five-week jury trial. The Court directed the parties to meet and confer regarding sentencing and any post-trial motions, and to submit a letter to the Court.

As to post-trial motions, the defendants have informed the Government that they do not yet know if they will file any post-trial motions, but that they consent to setting a schedule for filing any such motions. Accordingly, the parties jointly propose that the defendants' post-trial motions be due by June 9, 2025 (if they elect to file any), and that the Government's opposition be due by June 30, 2025.

As to sentencing, the parties jointly request that the Court order presentence investigations for the defendants.

The Government also requests that the Court schedule a joint sentencing for the three defendants. Such a request is appropriate here because: (1) the case involves a number of victims and family members of victims who will likely want to speak at sentencing, and requiring them to speak at multiple sentencing would be traumatic; (2) each of the three defendants is subject to a mandatory term of life imprisonment for the murder in aid of racketeering counts; and (3) the facts set forth in the Presentence Reports are likely to be substantially identical, so a joint sentencing will allow for the most efficient resolution of any factual disputes at sentencing.

A joint sentencing proceeding for multiple codefendants is entirely appropriate as long as the Court makes an individualized determination of the appropriate sentence for each defendant and separately considers the relevant Section 3553(a) factors as to each defendant. *See, e.g., United States v. Amato*, 15 F.3d 230, 237 (2d Cir. 1994) (describing an objection to a joint sentencing proceeding as "completely without merit" because the court "separately addresses Amato and each of his codefendants and identifies specific reasons for Amato's sentence"); *United States v. Lindsey*, 200 F. App'x 902, 906 (11th Cir. 2006) ("it is not improper for a district court

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to conduct joint sentencing of convicted codefendants"); *Runningeagle v. Ryan*, 686 F.3d 758, 778 (9th Cir. 2012) ("Ordinarily, defendants have no constitutional or statutory right to separate sentencing proceedings."); *Kansas v. Carr*, 577 U.S. 108, 125 (2016) (rejecting challenge to joint capital sentencing proceeding).

The defendants have not yet taken a position as to a joint sentencing.

Respectfully submitted,

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1. The Probation Department is directed to prepare presentence investigation reports for defendants Jowenky Nunez, Jr., Brian Hernandez, and Iyaury Rodriguez-Rosario.

2. Defendants shall file any post-trial motions on or before June 9, 2025, and the Government shall file any opposition on or before June 30, 2025.

3. A sentencing hearing as to these three defendants is hereby scheduled for August 27, 2025, at 10:00 a.m. The hearing will be a hybrid-joint sentencing hearing as follows: (1) any victims and victims' family members will be permitted to speak at a joint hearing, and the Government may present argument as to the defendants jointly; (2) the joint portion of the hearing will be immediately followed by hearings as to each defendant, in whatever order the parties may agree to, during which each defendant may present any separate arguments and statements he wishes to present.

So ordered.

5/22/2025



J. PAUL OETKEN
United States District Judge